IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 3640 OF 2007

Vilas Narayan Khandge & Ors. ...Petitioners
V/s.
Nashik Municipal Corporation & Ors. ...Respondents

Mr.Anil Singh holding for M/s.Ram & Co. for the Petitioners.
Mr.R.S. Apte for Respondent No.1.

CORAM : D.K. DESHMUKH &
V.M. KANADE, JJ.

DATED : DECEMBER 10, 2007

P.C. :-

1. After the sanction of Town Planning Scheme, in 1986, the petitioner's original plot 670A was only renumbered as plot No.393. It is an admitted position that the area and the dimensions of the plot remained the same. The petitioner has filed this petition for direction to the Planning Authority to remove encroachment on his plot. He relies on Section 88 of the Maharashtra Regional and Town Planning Act, 1966.

2. Perusal of Section 88 shows that there is obligation on the Planning Authority to handover possession of the final plot and if there are any encroachment on the final plot, the Planning Authority

may be liable to remove that encroachment. There is no question of handing over possession of the final plot to the petitioner because the final plot and the plot which originally belonged to the petitioner are the same. In any case, there is no question of handing over possession of plot to the petitioner. Therefore, there is no obligation on the Planning Authority to remove the encroachment on the plot. The plot is owned by the petitioner and therefore, it is his duty to protect it.

3. Petition is rejected.

(D.K. DESHMUKH, J.)

(V.M. KANADE, J.)